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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of:

ET Docket No. 94-32

ALLOCATION OF SPECTRUM BELOW 5GHZ
TRANSFERRED FROM FEDERAL GOVERNMENT USE

TO:

The Commission

Comments of Continental Airlines

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Comments of Continental Airlines

I. BACKGROUND:

Continental Airlines provides air transportation service throughout the United State and a wide variety of international destination including London, Paris, Frankfurt, Madrid, as well as numerous locations throughout Mexico, Central America and the Caribbean. In addition Continental Airlines provides substantial air transportation services in the Pacific, including Micronesia and various locations in Japan.

In 1993 Continental Airlines carried approximately 38,700,000 passengers; in the six months ended June 30, 1994 Continental Airlines carried approximately 19,900,000 passengers. In 1993 Continental Airlines had operating revenue of approximately \$5,800,000,000; in the six months ended June 30, 1994 Continental Airlines had operating revenue of approximately \$2,800,000,000.

Continental Airlines has a fleet of approximately 400 airplanes including wide-body DC-10s and A-300s as well as latest technology airplanes such as Boeing 757s and 737-500s. This fleet is generally operated through the company's major connecting hubs at Newark International Airport, Houston Intercontinental Airport, Cleveland-Hopkins Airport, as well as Los Angeles International Airport, Honolulu, and Guam. In addition Continental provides extensive point-to-point service particularly in the eastern half of the United States via Continental Lite. System-wide Continental Airlines has approximately 1950 daily departures which provide service into 115 airports around the world, 70 of which are in the United States. Overall, Continental employs approximately 42,000 persons, including 4,000 pilots, 6,000 flight attendants, 6,000 mechanics and related maintenance personnel, 3,500 reservations agents, and 13,000 airport agents.

II. Introduction:

In the Notice of Proposed Rule Making issued on October 20, 1994, the Commission announced its intention to allocate 50

megahertz of spectrum that had been identified and transferred by the Department of Commerce from government use and made available for private use. The particular spectrum are identified and located at 2390-2400 Mhz, 2402-2417 Mhz, and 4660-4685 Mhz.

The Commission specifically indicates that its proposal is intended to "create new jobs, foster economic growth, and improve access to communications by industry and the American public."

Continental Airlines believes that these goals will best be met, not by allocating the entire 50 Mhz in a broad and general manner to "general fixed and mobile services" particularly since such an allocation could be used for any purpose; rather Continental Airlines believes the goals of the Commission will best be achieved by allocating portions of the spectrum for use by discrete services. In particular, Continental Airlines supports allocation by the Commission of the 2390 -2400 Mhz band to enable the creation of new ground-to-air airline audio and video service (AAVS.)

III. Allocation of the Entire 50 Mhz Spectrum to "General Fixed and Mobil Services" Is Not Consistent with Either the Commission's Express Goals or the Public Interest.

Section 303 of the Communications Act directs the Commission to classify uses of the spectrum, identify and define the type of service provided by the different uses of the spectrum, and allocate portions of the spectrum to each different class of use. It is the responsibility of the Commission to make an initial determination as to the use and purpose which will be served by each portion of the spectrum. A non-specific allocation to "general fixed and mobile services" by the Commission would be inconsistent with this statutory obligation because it would avoid this responsibility. The category of "general fixed and mobile services" is so broad that it could encompass everything, virtually any communication could arguably qualify as a "fixed or mobile" service. Rather, Continental Airlines suggests that it would be appropriate for the Commission to decide via this rulemaking process what type of communication service will be authorized and allowed on each frequency band,

and then to allocate spectrum on that band to particular qualified users.

Section 925(a) of the National Telecommunications and Information Administration Organization Act requires that the 2390-2400 Mhz band be allocated in a manner compatible with co-channel amateur operations. The Commission recognized in the Notice that amateur operators currently operate on the 2390-2400 Mhz band, and that a general allocation to "fixed and mobile services" could interfere with amateurs' use of that band.

However, Continental Airlines believes that AAVS can operate on this spectrum band in a manner compatible with amateur use of the band, and that such use will not interfere with co-channel amateur use. This would allow maximum use of this band with the least interruption among diverse users.

IV. Allocation of the 2390-2400 Mhz band to Airline Audio - Visual Services is in the Pubic Interest.

As currently proposed, AAVS is a system that will provide several channels of live, broadcast quality video and audio programming to airline passengers at any time during their flight. Systems currently in development would provide four (4) channels of video programming and eighteen (18) channels of audio programming.

An AAVS licensee would provide AAVS services from fixed-site base stations located at various sites around the country. These base stations would simultaneously transmit all programming offered by the AAVS licensee and would operate in a cellular configuration so that all aircraft would be able to receive all programming continuously, including periods when the aircraft is moving from one fixed-site broadcast station area to another.

It is estimated that on an average day approximately 1.36 million people fly in the contiguous United States on commercial aircraft; this is expected to increase to 1.94 million people per day by the year 2003. (See FAA Aviation Forecasts, FY 1992-2003, Table 10; FAA-APO 92-1) Residents of an average American city of comparable size may choose from dozens of radio and television stations. But, when they travel by air they are unable to

exercise any of these choices. Action by the Commission to authorize AAVS systems by allocating this band to qualified AAVS service providers would allow air travelers significantly enhanced opportunity to select among a variety of choices of entertainment and information options.

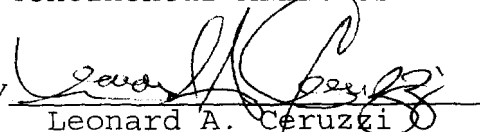
It is also true that this course of action by the Commission could benefit airlines such as Continental who decide to avail themselves of AAVS services on behalf of their passengers. This can occur in a variety of ways including the removal of outdated audio and video equipment from airplanes and their replacement with state of the art units. In addition a wide range of possible contractual arrangements are possible between individual air carriers and AAVS service providers. However, these items will essentially be determined by the broader question of how to provide increased passenger satisfaction by providing a broader range of choices of services, information, and entertainment to air travelers.

V. Conclusion:

Continental Airlines recommends that the Commission refrain from allocating the identified spectrum to the general or generic category of "fixed and mobile" services. Rather, Continental requests that the Commission allocate discrete portions of the spectrum to particular types of service. Specifically, Continental Airlines suggests that action by the Commission to allocate the identified discrete portion of the spectrum (2390-2400 Mhz) to a new airline audio and visual service is consistent with all applicable legal tenets and is in the public interest generally; such action would serve to advance the goals expressed by the Commission in this rulemaking process.

Respectfully submitted,
Continental Airlines

by


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